**THE HONOURABLE SRI JUSTICE V. ESWARAIAH**

**WRIT PETITION No.18186 OF 2006**

**DATED: 20-08-2007**

**BETWEEN**

Smt. Nirmala Kale,
W/o. Prasad Rao Kale,
R/o. H.No.1-30-15,
Tirumalanagar,
Kanajiguda,
Secunderabad.

...PETITIONER

**AND**

The Director General of Police,
Andhra Pradesh, Hyderabad
and others.

...RESPONDENTS

**ORDER:**

Petitioner seeks a Writ of Mandamus to declare the action of the respondents 3 and 4 in not arresting and filing charge sheet against A7 in Cr.No.44 of 2006 on the file of the Alwal Police Station, Cyberabad as illegal and arbitrary and to direct the respondents to arrest A7 and file charge sheet against him.

2. The only grievance of the petitioner is that the respondents 3 and 4 are not properly investigating the case registered against A7 and that they have not filed any charge sheet against A7.

3. It is the case of the petitioner that on 11.01.2006 at about 5.30 PM A1 to A4 along with three others trespassed into her house by

crashing the gate and abused her and her son in filthy language and caught hold of the hand of her son and threatened with dire consequences. A2 assaulted her son and caused injury to his right eye and A5 to A7 claiming themselves as CBI Officers manhandled her son and abused in most filthy language. She immediately gave a written report on 11.01.2006, based on which a case in Cr.No.44 of 2006 for the offence under Sections 448, 452 and 506 of the Indian Penal Code, 1860 has been registered against A1 to A4 and others, but the respondents have failed to take action against A5 to A7.

4. Counter has been filed stating that on a private complaint filed by the petitioner before the VI Metropolitan Magistrate, Medchal making allegations against A1 to A4 along with three others that they have trespassed into her house and beat, manhandled and threatened her son, the same was forwarded to the respondents for investigation and report. On receipt of the said complaint, the aforesaid case had been registered and A1 to A6 were arrested on different dates and after completion of investigation a charge sheet was also filed, which was numbered as C.C.No.l859 of 2006. It is stated that the investigation is already over and charge sheet has also been filed on 18.07.2006 but insofar as the allegations against A7 are concerned, there is no such A7 and details of A7 are no at all disclosed by anybody to the investigating officers till the date of filing of the charge sheet and none of the witnesses stated anything about A7.

With regard to the information furnished by the petitioner that A7 might be a police officer in ACB Department and that with the active collusion with the ACB officials only the respondents 3 and 4 have intentionally failed to arrest A7, is denied stating that the petitioner herself submitted a representation stating that A7 could be a lecturer and after thorough verification, it was proved to be false. Thereafter, another representation has been filed stating that A7 could be a Police Officer and after thorough investigation, it was proved to be false, therefore, it is incorrect to state that the investigating officers are shielding A7 without arresting him.

5. After filing of the counter, the learned counsel for the petitioner submitted that A6 was working as APSP Constable and that the Deputy Inspector General of Police – IV, APSP Battalions, Kakinada, H.A.C of The Commandant, 6th Battalion has conducted preliminary enquiry with regard to A6, in which there is some information about A7. Accordingly, this Court impleaded the Commandant, 6th Battalion as fifth respondent and directed him to produce the said enquiry report.

6. A perusal of the preliminary enquiry report dated 14.10.2006 of the fifth respondent goes to show that there is no material about A7 and that A6 posing himself as a Police Officer committed the offence in the said crime, therefore, he was rightly implicated and remanded to judicial custody. Though the investigating officer arrested A1 to A6 they have not mentioned any particulars of A7 and there is no existence of A7 in the remand report also. The said report does not say anything about the identity or the existence of A7, therefore, the said report is of no help. However, as the investigation is already over and charge sheet has been filed, I am of the opinion that the prayer of the writ petition to direct the respondents to file a charge sheet, has already been complied with. Insofar as the grievance of the petitioner that there was no justification on the part of the respondents in not arresting A7 is concerned, I am of the opinion that in the absence of any material or clues furnished by the petitioner or by any of the witnesses, it cannot be said that A7 is existing and that the respondents 3 and 4 are shielding A7. In view of the aforesaid facts and circumstances of the case, I do not see any merits in the writ petition.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

August 20, 2007
DSK